

248 B

FILE NO. 660/87

COURT OF APPEAL FOR ONTARIO

RE: THE LANARK, LEEDS AND GRENVILLE COUNTY ROMAN CATHOLIC SEPARATE SCHOOL BOARD (Appellant (Respondent)) and THE ONTARIO HUMAN RIGHTS COMMISSION ET AL. (Respondent (Appellant))

BEFORE: BLAIR, MORDEN CATZMAN JJ.A.

COUNSEL: T. LEDERER AND ANNE MCALLISTER FOR ONTARIO HUMAN RIGHTS COMMISSION
A.M. ROCK, Q.C. AND MARK HART FOR THE COMPLAINANTS

BRENDA BOWLBY AND STEVEN MOATE
R.C. SEPARATE SCHOOL BOARD

JOHN BELL AND PAUL HOWARD
FOR INTERVENOR, MINISTRY

HEARD: APRIL 3, 1989

ENDORSEMENT

"ORALLY"

Counsel for the appellant, the Ontario Human Rights Commission, has conceded that, if the appellant is successful on the merits of the appeal, the relief sought in his notice of appeal and factum, the restoration of the decision of the Board of Inquiry, is no longer appropriate.

The facts respecting two of the three complainants have changed since those in existence at the time of the hearing before the board. In the third case, the board found that there was no longer any discrimination and that it would be



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pointless to make a merely declaratory order respecting what would have been reasonable accommodation in that case before June, 1985.

Not only have the facts changed but so, also, has the law, by virtue of Statutes of Ontario 1986, Chap. 64, s.18, ss.(9), (10) and (16). A declaration of the meaning and effect of the former law applied to the former facts would be of no practical benefit to the parties or the public. With respect to the new provisions, which came into force on April 18, 1988, after both the Board of Inquiry and the Divisional Court had given their decisions, not only do we not have the benefit of the opinion of the board or of the court with respect to them, but we do not have before us in proper form the facts to which they should be applied.

In our opinion the appeal is moot and, in addition, the circumstances are such that we should not exercise our discretion to hear it. The appeal is dismissed. There will be no costs of the appeal or of the motion for leave to appeal.

*Gibson J.A.
F.W.McAtee J.A.*

*W.L.Coyne
J.A.*

APR 06 1989

